

REMARKS

Applicant provides the above amendments and following remarks to address the instant office action. Specifically, Applicant has reviewed the instant Office Action and the cited prior art and respectfully traverses.

Specifically, Applicant respectfully asserts that the relied upon cited art of Dewert (US 2002/0152552) and Dewert (US 6,754,922) fail to teach or suggest the claimed subject matter.

In particular, turning to paragraph 5 of the Action, claims 1-3, 5-7, 9-11, 23-24 and 27 are rejected under 102(e) or (a) by Dewert '552.

Nothing in Dewert '552 teaches having a first mechanical drive unit within the adjustable mattress. In contrast Applicant teaches and claims a mattress that includes a drive unit within the interior of the mattress.

Dewert teaches a supporting device 4 that includes driving gears 48 and 50. However, the driving gears are only placed within the supporting device 4 and not within the mattress. In fact Dewert merely teaches, as discussed at paragraphs 58-63, that a mattress may be "laid on the bearing area 58 of the supporting device 4, and is glued thereto using an adhesive so that the mattress is firmly attached to the supporting device 4 and the slats 52, 54 are securely held between the mattress and the base frame 2 of the supporting device 4." There is no teaching of the mattress having a drive unit placed within the mattress. In Dewert, the mattress is merely placed atop an adjustable foundation and glued or otherwise bound to the adjustable foundation. Accordingly, Dewert merely teaches, in truth, a mattress that is laid on and glued to a moveable foundation.

This distinction is particularly relevant with regard to claims 9 and 10, both of which explicitly require a mattress core adapted to receive a mechanical drive unit. There is nothing in Dewert that teaches placing a drive unit within a mattress core. Again, Dewert merely teaches placing the mattress on top of the adjustable foundation. Figures 7 and 8 of Dewert show that the drive unit is placed below and outside of the mattress core. Nor is the supporting device 4 part of the mattress core. The supporting device 4 is a rigid metal frame that provides no resilience or yield to the user and nothing in the supporting device 4 is part of the mattress 68.

For example, there are no spring coils, foam pads to support a sleeping user or any other component that would allow one to equate this supporting device 4 as part of the mattress core. Importantly, nowhere in Dewert does Dewert refer to the supporting device 4 as part of the mattress core. A rejection under either §102(a) or §102(e) requires that “the invention was described in” the publication being relied upon. This requirement is not met by the present rejection and Applicant notes that in every case in this publication where the mattress is shown or described, it is shown and described as sitting on top of a moveable foundation and nowhere in this publication is a mechanical drive unit shown as being within the mattress and certainly not within a mattress core.

Turning to paragraph 6, Applicant respectfully asks this rejection to be withdrawn. Nothing in Dewert teaches a mattress having a mechanical drive unit within the mattress. Moreover, at paragraph 13, the office action admits Dewert ‘922 is silent on this point. Given this admission, you cannot in paragraph 13 maintain that Figures 1-5 of Dewert ‘922 disclose the invention – none of these figures even show a mattress or maintain the §102 rejection raised in paragraph 6. This rejection for anticipation by Dewert ‘922 must be removed.

Turning to paragraphs 8 and 9, Applicant understands the Examiner’s argument, but for the reasons given above, notes that there remains a gap between Applicant’s claimed invention and the teachings of either Dewert publication.

Turning to paragraphs 10 and 11, Applicant respectfully traverses, and asks the Examiner to provide some evidence in support of this assertion. Moreover, even taking this assertion as true, this still does not bridge the gap identified above.

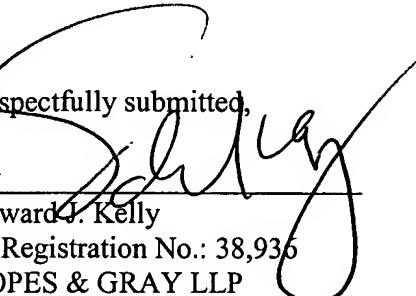
Finally, turning to paragraph 12, Applicant has reviewed Reeder and actually did not find Reeder to discuss worm gears or similar structure. Applicant reviewed the section cited by the Examiner – column 4, lines 501 – and at this section Reeder talks about a pillow top assembly and fabric shell. Applicant does not find Reeder to bridge the gap of Dewert to reach claims 18-20 and 28-31. Could the Examiner have meant to cite to a different patent? Any clarification will be appreciated.

For these reasons, the claimed subject matter patentably distinguish over the cited art.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: June 16, 2005

Respectfully submitted,

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